

1 William L. Hames, WSBA #12193
2 Hames, Anderson, Whitlow & O'Leary, P.S.
3 601 W. Kennewick Avenue
4 P.O. BOX 5498
5 Kennewick, WA 99336-0498
6 (509) 586-7797 / Fax (509) 586-3674
7 BillH@hawlaw.com

8 UNITED STATES BANKRUPTCY COURT
9 EASTERN DISTRICT OF WASHINGTON

10 In re:

11 GIGA WATT INC,

12 Debtor in Possession.

Case No. 18-03197-FPC11

PORT OF DOUGLAS COUNTY'S
PRECAUTIONARY OBJECTION TO
DEBTOR IN POSSESSION'S
EMERGENCY MOTION FOR INTERIM
AND FINAL ORDERS AUTHORIZING
DEBTOR IN POSSESSION TO (A)
INCUR POST-PETITION DEBT ON AN
EMERGENCY BASIS PENDING A FINAL
HEARING, AND (B) PROVIDE
SECURITY AND OTHER RELATED
RELIEF

18 COMES NOW the Port of Douglas County (Port), by and through its attorney
19 William L. Hames of Hames, Anderson, Whitlow & O'Leary, P.S., and by way of
20 precautionary objection to the debtor in possession's emergency motion for interim and
21 final order authorizing debtor in possession to (A) incur post-petition debt on an
22 emergency basis pending a final hearing, and (B) provide security and other related
23 relief, for the reason that the Port needs assurance that the cash in lieu of bond
24 currently being held by the Port pursuant to RCW 53.08.085 will not be an asset which
25 Debtor's lender may realize upon in the event of Debtor's default of the proposed loan.

OBJECTION - 1

HAMES, ANDERSON, WHITLOW & O'LEARY, P.S.
601 W. KENNEWICK AVENUE
P.O. BOX 5498
KENNEWICK, WA 99336-0498
(509) 586-7797 / Fax (509) 586-3674

1 The Port is the landlord and debtor is tenant in a land lease dated March 9, 2017,
2 and an addendum to the lease agreement dated August 15, 2017. The lease, on page
3 4, requires the debtor to post lease surety pursuant to RCW 53.08.085 in a form
4 satisfactory to the landlord. The debtor was unable to post a bond as surety and
5 therefore posted \$300,000 cash in lieu of bond. In August of 2017, due to the cost of
6 leasehold improvements made by the landlord, the rent was increased, as was the
7 lease surety. The lease surety was increased to \$350,000. The Port is currently
8 holding \$350,000 cash in lieu of bond as lease surety pursuant to RCW 53.08.085.

9 Debtor's proposed motion seeks to grant lender a priority lien over all existing
10 liens. The Port is concerned that lender may believe that the \$350,000 cash being held
11 as lease surety by the Port could be an asset subject to lender's claim in the event of
12 Debtor's default.

13 Therefore, the Port prays that any order entered on Debtor's motion specifically
14 exclude the lease surety being held by the Port as an asset that could be used by
15 lender in the event of Debtor's default.

16 DATED THIS 20th day of December 2018.

17 HAMES, ANDERSON, WHITLOW & O'LEARY, P.S.
18 Attorneys for Creditor Port of Douglas County

19 BY: /s/ William L. Hames
20 WILLIAM L. HAMES, WSBA #12193

21
22
23
24
25
OBJECTION - 2

HAMES, ANDERSON, WHITLOW & O'LEARY, P.S.
601 W. KENNEWICK AVENUE
P.O. BOX 5498
KENNEWICK, WA 99336-0498
(509) 586-7797 / Fax (509) 586-3674